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Attorneys for Defendant
LABORATORY CORPORATION OF AMERICA

FILED
JUN 27 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY E.C. DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

LEJONETTE MOORE, Plaintiff, v. LABORATORY CORPORATION OF AMERICA; and DOES 1 to 50, Defendants.	CASE NO.: '08 CV 1163 BTM CAB NOTICE OF REMOVAL OF ACTION; UNDER 28 U.S.C. SECTION 1441(a) (DIVERSITY) Date: June 27, 2008

TO THE CLERK OF THE ABOVE-ENTITLED COURT;

PLEASE TAKE NOTICE that Defendant LABORATORY CORPORATION OF AMERICA ("LabCorp") hereby removes to this Court the state court action described below.

1. On or about March 3, 2008, an action was commenced in the Superior Court of the State of California in and for the City and County of San Diego, entitled *Lejonette Moore, Plaintiff, v. Laboratory Corporation of America; and Does 1-50, Defendants*, as case number 37-2008-00079135-CU-WT-CTL. A copy of the Summons and Complaint initiating the state court action is hereto attached as **Exhibit "A"**.

2. A Notice and Acknowledgement of service of the summons and complaint on Defendant LabCorp was served on May 28, 2008. Service was completed on June 17, 2008, when the Notice and Acknowledgement was executed and returned. A copy of the Notice and Acknowledgement of Receipt is hereto attached as **Exhibit "B"**.

3. Defendant LabCorp has been served with no other pleadings, papers, or orders which may appear in the state court file. The lawsuit is a civil action stating nine causes of action alleging disability discrimination, pregnancy and sex discrimination, violation of the California Family Rights Act, retaliation, tortuous discharge in violation of public policy, and negligent and intentional infliction of emotional distress allegedly arising from Plaintiff's employment with Defendant LabCorp. *See* Exhibit A.

4. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. Section 1332(a), and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. Section 1441(a) in that it is a civil matter between citizens of different states and the matter in controversy exceeds $75,000, exclusive of interest and costs.

5. Plaintiff alleges in her Complaint that at all relevant times, she was residing in San Diego, California.

6. Defendant LabCorp was and is a corporation organized and existing under the laws of the State of Delaware. Defendant LabCorp's principle place of business is in the State of North Carolina. Thus, Defendant LabCorp is a citizen of a foreign state.

7. Defendants Does 1 through 50 are Defendants sued under fictitious names whose citizenship must be disregarded for purposes of removal pursuant to 28 U.S.C. §1441(a).

8. In addition to seeking reinstatement, for each of the nine causes of action in the complaint, Plaintiff seeks compensatory damages including lost wages, lost employee benefits, bonuses, vacation benefits, and other special and general damages. Plaintiff additionally seeks an award of punitive damages in connection with the Sixth Cause of Action for retaliation.

9. On Defendant's information and belief, lawsuits of this nature involve a matter in controversy which exceeds seventy-five thousand dollars ($75,000).

10. Defendant LabCorp's Notice of Removal is accompanied by written notice to Plaintiff and a copy of Defendant's Notice of Removal is being filed with the Clerk of the Superior Court of the State of California, in and for the County of San Diego, on this date as required by 28 U.S.C. §1446(d).

///

11. No other defendant has been served with the summons and complaint and thus there is no other defendant party to join in this Notice of Removal.

WHEREFORE, Defendant LabCorp provides Notice of Removal of the above styled action pending in the Superior Court of the State of California, in and for the County of San Diego, to the United States District Court for the Southern District of California.

DATED: June 27, 2008

DUCKOR SPRADLING METZGER & WYNNE
A Law Corporation

By: [signature]
JOHN J. WYNNE
ELIZABETH BURKE VANN
Attorneys for Defendant
LABORATORY CORPORATION OF AMERICA

John C. Wynne, Esq. (SBN 83041)
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LEJONETTE MOORE, Plaintiff, v. LABORATORY CORPORATION OF AMERICA, Defendant.	No.: **DECLARATION OF SERVICE** Person Served: Attorney for Plaintiff: Timothy L. Brictson BRICTSON & COHN 2214 Fifth Ave. San Diego, CA 92101 Tel: (619) 296-9387 Date Served: June 27, 2008

I, the undersigned, declare under penalty of perjury that I am over the age of eighteen years and not a party to this action; that I served the above-named person the following documents:

NOTICE OF REMOVAL OF ACTION; UNDER 28 U.S.C. SECTION 1441(a)

in the following manner:

check one)

1) ☐ By personally delivering copies to the person served.

2) ☐ By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid), copies to the person served at the place where the copies were left.

3) ☒ By placing a copy in a separate envelope, with postage fully prepaid, for each address named below and depositing each in the U.S. Mail at San Diego, California, on June 27, 2008.

4) ☐ By fax transmission, I faxed the documents to the person at the fax number listed above. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 27, 2008, at San Diego, California.

Dawna Kirbey

EXHIBIT A

EXHIBIT "A"

SUM-100

SUMMONS
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

SAN DIEGO COUNTY, CA

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
LABORATORY CORPORATION OF AMERICA; AND DOES 1 TO 50.

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
LEJONETTE MOORE

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es): SUPERIOR COURT OF CALIFORNIA
Hall of Justice, 330 W. Broadway, San Diego CA 92101

CASE NUMBER: 37-2008-00079135-CU-WT-CTL
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Timothy L. Brictson, BRICTSON & COHN, 2214 Fifth Avenue, San Diego CA 92101.
Telephone:619-296-9387

DATE: MAR 0 3 2008 Clerk, by Mary L. Mason, Deputy
(Fecha) *(Secretario)* MARY L. MASON *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify)*:
3. ☑ on behalf of *(specify)*: Laboratory Corporation of America

under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☑ CCP 416.90 (authorized person)
☐ other *(specify)*:

4. ☑ by personal delivery on *(date)*: 5-28-08

Page 1 of 1

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. January 1, 2004]

SUMMONS

Code of Civil Procedure §§ 412.20, 465

LAW OFFICE OF BRICTSON & COHN
Timothy L. Brictson, SBN 174907
Jacqueline Mittelstadt, SBN 172188
2214 Fifth Avenue
San Diego, CA 92101
Telephone: (619) 296-9387
Facsimile: (619) 232-0583

Attorneys for Plaintiff,
LEJONETTE MOORE

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

LEJONETTE MOORE, Plaintiff, vs. LABORATORY CORPORATION OF AMERICA; AND DOES 1 TO 50. Defendants	Case No.: GIC37-2008-00079135-CU-WT-CTL COMPLAINT : DISABILITY DISCRIMINATION [Cal. Gov. Code §12940(a), *et. seq.*]; DISABILITY DISCRIMINATION [Cal. Gov. Code §12940(n)]; PREGNANCY/SEX DISCRIMINATION; VIOLATION OF CALIFORNIA FAMILY RIGHTS ACT; RETALIATION; TORTIOUS DISCHARGE IN VIOLATION OF PUBLIC POLICY; INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS.

COMES NOW Plaintiff, LEJONETTE MOORE and complains and alleges as follows:

FACTS COMMON TO ALL CAUSES OF ACTION

1) Defendant, LABORATORY CORPORATION OF AMERICA, INC., (hereinafter "LABCORP"), is, and at all times herein mentioned was, a corporation duly organized and existing under the laws of the State of Delaware and doing business in San Diego, California.

2) The true names and capacities of Defendants named herein as DOES 1 through 50, inclusive, whether individual, corporate, associate, or otherwise, are unknown to Plaintiff, and thus sued by such fictitious names pursuant to Cal. Code Civ. Proc. § 474. Plaintiff is informed and believes

that DOE Defendants are California residents. Plaintiff will amend this Complaint to show true names in these capacities when they have been determined.

3) Plaintiff is informed and believes that at all times herein the individual actors were agents, servants, and employees of named Defendants, and were acting within the course and scope of their authority as agents, servants, and employees with the permission and consent of Defendants.

4) Plaintiff is, and at all relevant times was, an adult residing in San Diego County, California.

5) At all relevant times herein, Plaintiff was an employee of Defendant LABCORP.

6) At all relevant times herein, Plaintiff was a permanent employee of Defendant LABCORP, employed as a customer service support representative.

7) In 2005, Plaintiff informed her employer that she was pregnant. LABCORP representatives informed her that she could never call in sick due to her pregnancy. They stated: "That was unacceptable." This was true even though Plaintiff had been informed during her training that the Paid Leave Bank ("POB") could be used for anything, giving examples such as getting ones nails done. Plaintiff's pregnancy did not go to term.

8) In December 2005, while at work, Plaintiff was clearly ill and in the process of a miscarriage. While crying, Plaintiff informed her supervisor that she was hemorrhaging. Her supervisor stated that maybe she needed to put her feet up and told her to watch a training video and see how she feels. Plaintiff's friend became upset and encouraged Plaintiff to inform her superiors that she needed to leave. Plaintiff feared reprisal from her supervisor so first she contacted her physician's office. The nurse informed Plaintiff that she needed to go home and that the nurse would fax a note to Plaintiff's superior. Plaintiff's superior told Plaintiff she could go home, but she must return the next day. A second supervisor stated that Plaintiff should have gotten the day

off, but her superior who told her to be back at work merely retorted that "Plaintiff did not ask for it."

9) In contrast to Defendant LABCORP representatives' treatment of Plaintiff, another woman at the facility became pregnant and suffered a miscarriage. This individual was allowed to leave work when hemorrhaging. In addition, the supervisors allowed that worker to remain off work after the miscarriage for approximately three weeks.

10) During a second pregnancy, in approximately August 2006, LABCORP representatives told Plaintiff they would accommodate whatever time off she needed for her pregnancy. One representative stated "even if your time runs out, just call us, we will accommodate you. Six months may not be enough time, we will accommodate more than that if necessary."

11) On or about September 8, 2006, Plaintiff suffered from pregnancy related Bells Palsey in the seventh month of her pregnancy. Her doctor removed her from work. Bells Palsy caused Plaintiff's entire left side to feel paralyzed.

12) Prior to the doctor removing her from work, Plaintiff had arranged with LABCORP to be off work on maternity leave in early October 2006. LABCORP was leaving it up to Plaintiff what exact date she desired to go on maternity leave.

13) Despite LABCORP representatives' previous assertions regarding accommodating her pregnancy leave, as early as November 2006, Plaintiff was contacted by her supervisor at LABCORP and erroneously informed that she had not been an employee for one year and as such she was not eligible for the Family Medical Leave Act ("FMLA") benefits. As such, she was informed that she needed to return to work immediately.

14) Plaintiff felt extreme pressure to return to work despite that she had in fact worked for LABCORP over one year and was entitled to FMLA. Plaintiff contacted the LABCORP Human

Resources Department ("HR") to confirm that she had been employed for over one year. LABCORP reluctantly confirmed that she in fact was entitled to FMLA and approved twelve weeks leave.

15) Subsequent to Defendant's representatives unsuccessful efforts to force Plaintiff's return to work, Defendant's representatives informed Plaintiff while she was still on maternity leave that she needed to return to her workplace to pack up all her items because someone else needed to sit at her desk.

16) Plaintiff returned to work on February 22, 2007.

17) Immediately upon her return, Plaintiff was treated differently than prior to her medical leave. Before her leave, Plaintiff often worked many overtime hours at her employer's request. However, after her return, she was offered overtime only once.

18) While on maternity leave, Plaintiff's desk had been moved to the back corner in a location where her back now faced everyone else in the room.

19) On February 28, 2007, Plaintiff's small baby was sick and needed to see the doctor. Plaintiff had five hours of leave time attributable to her. Despite that she had sufficient time on the books, when she contacted her supervisor, Plaintiff was informed that she did not have the time to take off. LABCORP representatives stated "can't your Mom take your kids? You need to make arrangements, you do not have time on the books. You are either coming to work or you are quitting." Plaintiff was extremely distressed.

20) Plaintiff contacted HR who confirmed not only that Plaintiff had five hours on the books, but also that Plaintiff's supervisors were aware prior to their conversation with Plaintiff that Plaintiff had five hours available. However, despite that the supervisors knew Plaintiff had five hours available, they lied to Plaintiff telling her she only had 2.77 hours which in their opinion was not

sufficient time for her to take her baby to the doctor. Plaintiff felt pressured by her supervisor which resulted in Plaintiff working that day.

21) Plaintiff worked without incident until early March when she began to suffer from post-partum depression.

22) On March 5, 2007, Plaintiff's doctor treated her for depression and removed her from work for a mere two weeks.

23) Plaintiff contacted LABCORP and left her supervisor a message regarding her doctor's removing her from work. Later that day, a LABCORP Manager contacted Plaintiff to inform her that LABCORP "could not accommodate her requested personal time off. Whenever you are better, you can reapply for your position." They informed Plaintiff that she was not fired, however they were "terminating her employment."

24) The next day, on March 6, 2007, Plaintiff faxed her doctor's note requiring that Plaintiff be off work for two weeks to her supervisor at LABCORP. She contacted HR to determine whether they would appropriately honor her medical restriction for the requested two weeks. The HR Manager informed Plaintiff "I am sorry, I hope you are getting better." The Manager informed Plaintiff she would look into the situation and call her back.

25) Plaintiff did not hear back from the HR Manager until Friday of that week. On that day, LABCORP representatives informed Plaintiff that they must terminate her because they could not accommodate the "personal time she was requesting." Despite that LABCORP had already packed up Plaintiff's items and sent them to Plaintiff's house via DHL, Plaintiff was not informed of this. When Plaintiff returned to her home, she found all her things from LABCORP dumped in front of her house unattended in an old taped up box. Numerous items were broken and destroyed.

26) Subsequently, Plaintiff received a letter from LABCORP dated March 8, 2007, which stated that i) Ms. Moore was ineligible for FMLA, and ii) due to a "serious health condition that makes [her] unable to perform the essential functions of [her] job," and that she was therefore terminated.

27) On July 23, 2007, Plaintiff requested that LABCORP engage in an informal interactive process to discuss whether Plaintiff could perform the essential functions of her position. LABCORP never responded.

28) On August, 23, 2007, Plaintiff again contacted LABCORP following up on her request to engage in an interactive process. LABCORP again failed to respond.

29) On Nov. 27, 2007, Plaintiff contacted LABCORP for the third time requesting a response to her requests for engaging in an interactive process. LABCORP ignored this request as well.

30) On August 31, 2007, and on ______________, Plaintiff timely filed complaints with the Department of Fair Employment and Housing ("DFEH") complaining of the wrongful conduct described herein.

31) The DFEH mailed Right to Sue Notices to Plaintiff, less than one year from the filing of this Complaint.

FIRST CAUSE OF ACTION
DISABILITY DISCRIMINATION
FAILURE TO ENGAGE IN A TIMELY, GOOD FAITH, INTERACTIVE PROCESS WITH THE PLAINTIFF TO DETERMINE EFFECTIVE REASONABLE ACCOMMODATIONS
Cal. Gov. Code §12940 (n)

32) The allegations set forth in the above and below paragraphs are re-alleged and incorporated herein by reference.

33) At all times herein mentioned, Government Code § 12900, *et seq*., were in full force and effect and were binding upon Defendant. This section requires Defendant to engage in a timely,

good faith, interactive process with the employee or applicant to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition.

34) Plaintiff requested that Defendant engage in a timely, good faith, interactive process to explore Plaintiff's capacities to return to work with Defendant, essential work functions, and reasonable accommodations or lack thereof.

35) Within the time provided by law, Plaintiff filed complaints with the California Department of Fair Employment and Housing and received Right to Sue letters.

36) Plaintiff requested such accommodation and exploration, but Defendant refused to do so in good faith. Plaintiff maintains that Defendant had already decided that Plaintiff would not be allowed to return to work as a customer service support representative; and that Defendant refused to consider or even respond to Plaintiff's multiple requests to engage in an interactive process.

37) As a proximate result of Defendant's willful, knowing, and intentional discrimination against Plaintiff, she continues to sustain substantial losses in earnings and other employment benefits.

38) As a proximate result of Defendant's willful, knowing, and intentional discrimination against Plaintiff, she has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a sum accruing to proof.

39) Plaintiff has incurred and continues to incur legal expense and attorneys' fees. The total amount of those attorneys' fees and expenses are currently unknown, and Plaintiff prays leave of court to amend this Complaint when said amounts are fully known.

40) WHEREFORE, Plaintiff requests relief as hereinafter provided.

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SECOND CAUSE OF ACTION
DISABILITY DISCRIMINATION
HARASSMENT
Cal. Gov. Code § 12940(a), *et seq.*

41) The allegations set forth in the above and below paragraphs are re-alleged and incorporated herein by reference.

42) At all times herein mentioned, Government Code §12940 was in full force and effect and was binding upon Defendant. This section requires Defendants to refrain from discrimination against any employee on the basis of an actual or perceived disability.

43) Within the time provided by law, Plaintiff filed complaints with the California Department of Fair Employment and Housing and received Right to Sue letters.

44) Defendant has, on an ongoing and continuing basis, harassed and discriminated against Plaintiff due to Plaintiff's actual and/or perceived disability, including but not limited to: informing Plaintiff that she could not take any pregnancy related time off for her first pregnancy; informing Plaintiff that they would accommodate any time off she wanted for her second pregnancy and then after having her twins demanded that Plaintiff immediately return to work because she was allegedly not eligible for CFRA Leave when she was; pressuring Plaintiff from taking her baby to the doctor by falsely informing Plaintiff that she only had 2.77 hours on the books rather than the true 5; threatening her that they would consider Plaintiff to have quit her job if she took her baby to the doctor even though she had sufficient leave time to allow for it; stating that Plaintiff's mother or some other arrangement needed to be made to get her baby to the doctor even though Plaintiff had sufficient leave time to allow for it; terminating Plaintiff for "requesting personal leave time," when in fact Plaintiff expressly informed them her doctor had removed her from work for two weeks due to post-partum depression; terminating Plaintiff's employment, packing her office, and without informing Plaintiff, then dumping those contents unsupervised in front of her house, yet concurrently informing Plaintiff on the same day her belongings were dumped in front of her home, that they could not accommodate her request for

personal time off, even though Plaintiff had provided a doctor's prescription clearly indicating that Plaintiff had been removed from work for two weeks for a medical condition; subsequently informing Plaintiff a different reason for her termination, that she was ineligible for FMLA, and due to a serious health condition she was unable to perform her job; and refusing to engage in or even reply to Plaintiff's multiple requests for a good faith interactive process regarding Plaintiff's return to work all due to Plaintiff's actual or perceived disability.

45) As a proximate result of Defendant's willful, knowing, and intentional discrimination against Plaintiff, she continues to sustain substantial losses in earnings and other employment benefits.

46) As a proximate result of Defendant's willful, knowing, and intentional discrimination against Plaintiff, she has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a sum accruing to proof.

47) Plaintiff has incurred and continues to incur legal expense and attorneys' fees. The total amount of those attorneys' fees and expenses are currently unknown, and Plaintiff prays leave of court to amend this Complaint when said amounts are fully known.

48) WHEREFORE, Plaintiff requests relief as hereinafter provided.

THIRD CAUSE OF ACTION
DISABILITY DISCRIMINATION
DISPARATE TREATMENT
Cal. Gov. Code § 12940(a), *et seq.*

49) The allegations set forth in the above and below paragraphs are re-alleged and incorporated herein by reference.

50) At all times herein mentioned, Government Code § 12940 was in full force and effect and were binding upon Defendant. This section requires Defendants to refrain from discrimination against any employee on the basis of an actual or perceived disability.

51) Within the time provided by law, Plaintiff filed complaints with the California Department of Fair Employment and Housing and received Right to Sue letters.

52) Defendant has, on an ongoing and continuing basis, harassed and discriminated against Plaintiff due to Plaintiff's actual and/or perceived disability, including but not limited to: informing Plaintiff that she could not take any pregnancy related time off for her first pregnancy; not allowing Plaintiff any time off due to a miscarriage yet allowing another employee up to three weeks off after a miscarriage; informing Plaintiff that they would accommodate any time off she wanted for her second pregnancy, and then after having her twins demanding that Plaintiff immediately return to work because she was allegedly not eligible for CFRA Leave when she was; pressuring Plaintiff from taking her baby to the doctor by falsely informing Plaintiff that she only had 2.77 hours on the books rather than the true 5 hours she had on the books; threatening her that they would consider Plaintiff to have quit her job if she took her baby to the doctor even though she had sufficient leave time to allow for it; stating that Plaintiff's mother or some other arrangement needed to be made to get her baby to the doctor even though Plaintiff had sufficient leave time to allow for it; forcing Plaintiff to sit in the back corner of the office with her back to everyone after her return from medical leave; not affording Plaintiff the opportunity for overtime as they had allowed her prior to her leave; terminating Plaintiff for "requesting personal leave time," when in fact Plaintiff expressly informed them her doctor had removed her from work for two weeks due to post-partum depression; terminating Plaintiff's employment, packing her office, and without informing Plaintiff, then dumping those contents unsupervised in front of her house, yet concurrently informing Plaintiff on the same day her belongings were dumped in front of her home, that they could not accommodate her request for personal time off, even though Plaintiff had provided a doctor's prescription clearly indicating that Plaintiff had been removed from work for two weeks for a medical condition; subsequently informing Plaintiff a different reason for her termination, that she was ineligible for FMLA, and due to a serious health condition she was unable to perform her job; and refusing to engage in or even reply to Plaintiff's request for a good faith interactive process regarding Plaintiff's return to work all due to Plaintiff's actual or perceived disability.

53) As a proximate result of Defendant's willful, knowing, and intentional discrimination against Plaintiff, she continues to sustain substantial losses in earnings and other employment benefits.

54) As a proximate result of Defendant's willful, knowing, and intentional discrimination against Plaintiff, she has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a sum accruing to proof.

55) Plaintiff has incurred and continues to incur legal expense and attorneys' fees. The total amount of those attorneys' fees and expenses are currently unknown, and Plaintiff prays leave of court to amend this Complaint when said amounts are fully known.

56) WHEREFORE, Plaintiff requests relief as hereinafter provided.

FOURTH CAUSE OF ACTION
PREGNANCY / SEX DISCRIMINATION
Cal. Govt. Code § 12945

57) The allegations set forth in the above and below paragraphs are re-alleged and incorporated herein by reference.

58) At all times herein mentioned, Government Code § 12945 was in full force and effect and was binding upon Defendant. This section requires Defendants to refrain from discrimination against any employee on the basis of pregnancy, childbirth, or related medical conditions and requires that an employer allow a female employee disabled by pregnancy, childbirth, or related medical conditions to take a leave for a reasonable period of time not to exceed four months and thereafter return to work; and requires an employer to provide reasonable accommodation for an employee for conditions related to pregnancy, childbirth, or related medical conditions, if she so requests, with the advice of her health care provider; and that an employer who has a policy, practice, or collective bargaining agreement requiring or authorizing the transfer of temporarily disabled employees to less strenuous or hazardous positions for the duration of the disability must transfer a pregnant female employee who so requests; and an employer may not refuse to

temporarily transfer a pregnant female employee to a less strenuous or hazardous position for the duration of her pregnancy if she so requests, with the advice of her physician, where that transfer can be reasonably accommodated.

59) Within the time provided by law, Plaintiff filed Complaints with the California Department of Fair Employment and Housing and received Right to Sue letters.

60) Defendant has, on an ongoing and continuing basis, harassed and discriminated against Plaintiff due to Plaintiff's actual and/or perceived disability including but not limited to: informing Plaintiff that she could not take any pregnancy related time off for her first pregnancy; not allowing Plaintiff any time off due to a miscarriage yet allowing another employee up to three weeks off after a miscarriage; informing Plaintiff that they would accommodate any time off she wanted for her second pregnancy and then after having her twins demanding that Plaintiff immediately return to work because she was allegedly not eligible for CFRA Leave when she was; pressuring Plaintiff from taking her baby to the doctor by falsely informing Plaintiff that she only had 2.77 hours on the books rather than the true 5 hours she had on the books; threatening her that they would consider Plaintiff to have quit her job if she took her baby to the doctor even though she had sufficient leave time to allow for it; stating that Plaintiff's mother or some other arrangement needed to be made to get her baby to the doctor even though Plaintiff had sufficient leave time to allow for it; forcing Plaintiff to sit in the back corner of the office with her back to everyone after her return from medical leave; not affording Plaintiff the opportunity for overtime as they had allowed her prior to her leave; terminating Plaintiff for "requesting personal leave time," when in fact Plaintiff expressly informed them her doctor had removed her from work for two weeks due to post-partum depression; terminating Plaintiff's employment, packing her office, and without informing Plaintiff, then dumping those contents unsupervised in front of her house, yet concurrently informing Plaintiff on the same day her belongings were dumped in front of her home, that they could not accommodate her request for personal time off, even though Plaintiff had provided a doctor's prescription clearly indicating that Plaintiff had been removed from work for two weeks for a medical condition; subsequently

informing Plaintiff a different reason for her termination, that she was ineligible for FMLA, and due to a serious health condition she was unable to perform her job; and refusing to engage in or even reply to Plaintiff's request for a good faith interactive process regarding Plaintiff's return to work all due to Plaintiff's actual or perceived disability.

61) As a proximate result of Defendant's willful, knowing, and intentional discrimination against Plaintiff, she continues to sustain substantial losses in earnings and other employment benefits.

62) As a proximate result of Defendant's willful, knowing, and intentional discrimination against Plaintiff, she has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a sum according to proof.

63) Plaintiff has incurred and continues to incur legal expense and attorneys' fees. The total amount of those attorneys' fees and expenses are currently unknown, and Plaintiff prays leave of court to amend this Complaint when said amounts are fully known.

64) WHEREFORE, Plaintiff requests relief as hereinafter provided.

FIFTH CAUSE OF ACTION
VIOLATIONS OF THE CALIFORNIA FAMILY RIGHTS ACT
Cal. Govt. Code § 12945.2

65) The allegations set forth in the above and below paragraphs are re-alleged and incorporated herein by reference.

66) At all times herein mentioned, Government Code § 12945.2 was in full force and effect and were binding upon Defendant. This section states that it shall be an unlawful employment practice for any employer to refuse to grant a request by any employee with more than 12 months of service with the employer, and who has at least 1,250 hours of service with the employer during the previous 12-month period, to take up to a total of 12 workweeks in any 12-month period for family care and medical leave. Family care and medical leave requested pursuant to this subdivision shall not be deemed to have been granted unless the employer

provides the employee, upon granting the leave request, a guarantee of employment in the same or a comparable position upon the termination of the leave.

67) Within the time provided by law, Plaintiff filed complaints with the California Department of Fair Employment and Housing and received Right to Sue letters.

68) Defendant has, on an ongoing and continuing basis, harassed and discriminated against Plaintiff due to Plaintiff's actual and/or perceived disability, including but not limited to: informing Plaintiff that she could not take any pregnancy related time off for her first pregnancy; not allowing Plaintiff any time off due to a miscarriage yet allowing another employee up to three weeks off after a miscarriage; informing Plaintiff that they would accommodate any time off she wanted for her second pregnancy and then after having her twins demanding that Plaintiff immediately return to work because she was allegedly not eligible for CFRA Leave when she was; pressuring Plaintiff from taking her baby to the doctor by falsely informing Plaintiff that she only had 2.77 hours on the books rather than the true 5 hours she had on the books; threatening her that they would consider Plaintiff to have quit her job if she took her baby to the doctor even though she had sufficient leave time to allow for it; stating that Plaintiff's mother or some other arrangement needed to be made to get her baby to the doctor even though Plaintiff had sufficient leave time to allow for it; forcing Plaintiff to sit in the back corner of the office with her back to everyone after her return from medical leave; not affording Plaintiff the opportunity for overtime as they had allowed her prior to her leave; terminating Plaintiff for "requesting personal leave time," when in fact Plaintiff expressly informed them her doctor had removed her from work for two weeks due to post-partum depression; terminating Plaintiff's employment, packing her office, and without informing Plaintiff, then dumping those contents unsupervised in front of her house, yet concurrently informing Plaintiff on the same day her belongings were dumped in front of her home, that they could not accommodate her request for personal time off, even though Plaintiff had provided a doctor's prescription clearly indicating that Plaintiff had been removed from work for two weeks for a medical condition; subsequently informing Plaintiff a different reason for her termination, that she was ineligible for FMLA, and

due to a serious health condition she was unable to perform her job; and refusing to engage in or even reply to Plaintiff's request for a good faith interactive process regarding Plaintiff's return to work all due to Plaintiff's actual or perceived disability.

69) As a proximate result of Defendant's willful, knowing, and intentional discrimination against Plaintiff, she continues to sustain substantial losses in earnings and other employment benefits.

70) As a proximate result of Defendant's willful, knowing, and intentional discrimination against Plaintiff, she has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a sum accruing to proof.

71) Plaintiff has incurred and continues to incur legal expense and attorneys' fees. The total amount of those attorneys' fees and expenses are currently unknown, and Plaintiff prays leave of court to amend this Complaint when said amounts are fully known.

72) WHEREFORE, Plaintiff requests relief as hereinafter provided.

SIXTH CAUSE OF ACTION
RETALIATION
Cal. Govt. Code § 12940 *et seq*, 12945, 12945.2

73) The allegations set forth in the above and below paragraphs are re-alleged and incorporated herein by reference.

74) At all times herein mentioned, Government Code §§ 12940, *et seq.*, 12945, & 12945.2 were in full force and effect and were binding upon Defendant. Those sections require that Defendant refrain from retaliation against its employees, such as Plaintiff, for utilizing their rights under these statutes.

75) Within the time provided by law, Plaintiff filed complaints with the California Department of Fair Employment and Housing and received Right to Sue letters.

76) Defendant has, on an ongoing and continuing basis, harassed, discriminated, and retaliated against Plaintiff due to Plaintiff's actual and/or perceived disability, including but not limited to

including but not limited to: informing Plaintiff that she could not take any pregnancy related time off for her first pregnancy; not allowing Plaintiff any time off due to a miscarriage yet allowing another employee up to three weeks off after a miscarriage; informing Plaintiff that they would accommodate any time off she wanted for her second pregnancy and then after having her twins demanding that Plaintiff immediately return to work because she was allegedly not eligible for CFRA Leave when she was; pressuring Plaintiff from taking her baby to the doctor by falsely informing Plaintiff that she only had 2.77 hours on the books rather than the true 5 hours she had on the books; threatening her that they would consider Plaintiff to have quit her job if she took her baby to the doctor even though she had sufficient leave time to allow for it; stating that Plaintiff's mother or some other arrangement needed to be made to get her baby to the doctor even though Plaintiff had sufficient leave time to allow for it; forcing Plaintiff to sit in the back corner of the office with her back to everyone after her return from medical leave; not affording Plaintiff the opportunity for overtime as they had allowed her prior to her leave; terminating Plaintiff for "requesting personal leave time," when in fact Plaintiff expressly informed them her doctor had removed her from work for two weeks due to post-partum depression; terminating Plaintiff's employment, packing her office, and without informing Plaintiff, then dumping those contents unsupervised in front of her house, yet concurrently informing Plaintiff on the same day her belongings were dumped in front of her home, that they could not accommodate her request for personal time off, even though Plaintiff had provided a doctor's prescription clearly indicating that Plaintiff had been removed from work for two weeks for a medical condition; subsequently informing Plaintiff a different reason for her termination, that she was ineligible for FMLA, and due to a serious health condition she was unable to perform her job; and refusing to engage in or even reply to Plaintiff's request for a good faith interactive process regarding Plaintiff's return to work all due to Plaintiff's actual or perceived disability.

77) As a proximate result of Defendant's willful, knowing, and intentional discrimination against Plaintiff, she continues to sustain substantial losses in earnings and other employment benefits.

78) As a proximate result of Defendant's willful, knowing, and intentional discrimination against Plaintiff, she has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a sum accruing to proof.

79) Plaintiff has incurred and continues to incur legal expense and attorneys' fees. The total amount of those attorneys' fees and expenses are currently unknown, and Plaintiff prays leave of court to amend this complaint when said amounts are fully known.

80) WHEREFORE, Plaintiff requests relief as hereinafter provided.

SEVENTH CAUSE OF ACTION
TORTIOUS DISCHARGE IN VIOLATION OF PUBLIC POLICY: DISABILITY DISCRIMINATION, CONSTITUTION OF CALIFORNIA, ARTICLE I § 8.

81) The allegations set forth in the above and below paragraphs are re-alleged and incorporated herein by reference.

82) At all times herein mentioned, Constitution of California, Article I § 8 was in full force and effect and was binding upon Defendants. This section requires Defendants to refrain from discrimination against any employee on the basis of a disability, on the basis of sex including but not limited to pregnancy, childbirth or related medical conditions, and on the basis of association.

83) Defendants terminated Plaintiff's employment in part due to Plaintiff's use of medical leave, use of pregnancy leave, and leave due to post-partum depression.

84) As a proximate result of Defendants' willful, knowing, and intentional discrimination against Plaintiff, she continues to sustain substantial losses in earnings and other employment benefits.

85) As a proximate result of Defendants' willful, knowing, and intentional discrimination against Plaintiff, she has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a sum accruing to proof.

86) Plaintiff has incurred and continues to incur legal expense and attorneys' fees. The total amount of those attorneys fees and expenses are currently unknown, and Plaintiff prays leave of court to amend this Complaint when said amounts are fully known.

87) WHEREFORE, Plaintiff requests relief as hereinafter provided.

EIGHTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

88) Plaintiff hereby incorporates by reference all above and below paragraphs of this Complaint as if fully set forth herein.

89) Defendants, acting on their own and through agents and employees, engaged in the acts heretofore described deliberately and intentionally in order to cause Plaintiff severe emotional distress, alternatively, Plaintiff alleges that such conduct was done in reckless disregard of the probability of said conduct causing Plaintiff severe emotional distress.

90) The foregoing conduct did, in fact, cause Plaintiff to suffer extreme and severe emotional distress. As a proximate result of said conduct, Plaintiff suffered embarrassment, anxiety, humiliation, and emotional distress, and will continue to suffer said emotional distress in an amount in excess of the minimum jurisdiction of this Court, the precise amount of which will be proven at the time of trial.

91) Defendants committed the acts alleged herein maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and acted with an improper and evil motive amounting to malice and in conscious disregard of Plaintiff's rights. Because the acts taken towards Plaintiff were carried out by managerial employees acting in a despicable, deliberate, cold, callous, and intentional manner in order to injure and damage Plaintiff, Plaintiff is entitled to recover punitive damages from Defendants in an amount according to proof.

92) WHEREFORE, Plaintiff requests relief as hereinafter provided.

NINTH CAUSE OF ACTION
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

93) Plaintiff hereby incorporates by reference all above and below paragraphs of this Complaint as if fully set forth herein.

94) Defendants, acting on their own and through agents and employees, engaged in acts heretofore described negligently in light of the foreseeable emotional shock to Plaintiff.

95) The foregoing conduct did, in fact, cause Plaintiff to suffer extreme and severe emotional distress. As a proximate result of said conduct, Plaintiff suffered embarrassment, anxiety, humiliation, and emotional distress and will continue to suffer said emotional distress in an amount in excess of the minimum jurisdiction of this Court, the precise amount which will be proven at the time of trial.

96) WHEREFORE, Plaintiff requests relief as hereinafter provided.

PRAYER

97) Plaintiff hereby incorporates by reference all of the preceding paragraphs, inclusive, of this Complaint as if fully set forth herein.

98) WHEREFORE, Plaintiff prays for relief against Defendants, and each of them as follows:

a. For special compensatory damages, including lost wages, lost employee benefits, bonuses, vacation benefits, medical treatment, mental and emotional distress, and other special and general damages according to proof, for All Causes of Action;

b. For general compensatory damages, including lost wages, lost employee benefits, bonuses, vacation benefits, mental and emotional distress, and other special and general damages according to proof, for All Causes of Action;

c. For an award to Plaintiff of costs of suit incurred hereon on all causes of action;

d. For an award to Plaintiff of attorneys' fees and costs on All Causes Of Action;

e. For an award of interest, including prejudgment interest, at the legal rate;

f. For injunctive relief that Defendant reinstate Plaintiff;

g. For an award of punitive damages against LABCORP for the Sixth Cause of Action and as otherwise described in the above causes of action; &

h. For an award to Plaintiff of such other and further relief as this Court deems just and proper.

Dated this 3rd day of March, 2008

By: ______________________

LAW OFFICE OF BRICTSON & COHN
Timothy Brictson
Attorneys for Plaintiff
LEJONETTE MOORE

Timothy L. Brictson, 174907
BRICTSON AND COHN
2214 Fifth Avenue
San Diego, California 92101
Telephone (619) 296-9387
Facsimile (619) 232-0583

Attorneys for Plaintiff

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CENTRAL DIVISION

LEJONETTE MOORE Plaintiff, v. LABORATORY CORPORATION OF AMERICA; and DOES 1 TO 50. Defendants	Case No. 37-2008-79135 STATEMENT OF DAMAGES

COMES NOW Plaintiff, LEJONETTE MOORE with this Statement of Damages against Defendants, LABORATORY CORPORATION OF AMERICA; AND DOES 1 TO 50, inclusive and each of them, as follows:

1. **SPECIAL DAMAGES**

Plaintiff is seeking special damages in the sum of approximately $75,000, which continues to increase as Plaintiff's medical costs and wage loss increases.

2. **GENERAL DAMAGES**

Plaintiff is seeking general damages in the sum of $100,000.

3. **EXEMPLARY DAMAGES**

Plaintiff is seeking exemplary damages in an amount necessary to punish Defedant and discourage future wrongful conduct, based on Defendant's financial condition, Defendant's net worth, and on other factors such as income.

4. **COSTS**

Plaintiff is seeking costs of this lawsuit in the sum according to proof, which will include sums paid for filing, service of process, copies, faxes, postage, etc.

5. **ATTORNEY'S FEES & STATUTORY COSTS**

Plaintiff is seeking his attorney's fees incurred in pursuing this lawsuit in the sum according to proof, based on statute, public policy, and/ or any agreement between the parties that provides for same. Plaintiff is also seeking statutory costs including but not limited to expert witness fees.

6. **ADDITIONAL STATUTORY DAMAGES**

Plaintiff is seeking any and all damages provided by statute for each and every violation alleged in Plaintiff's complaint and any amended complaints.

LAW OFFICE OF BRICTSON & COHN

Dated: May 27, 2008

BY
Timothy L. Brictson
Attorneys for Plaintiff

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA) RE: **MOORE, LEJONETTE V. LAB CORPS**

COUNTY OF SAN DIEGO)

I am a resident of the County aforesaid. I am over the age of eighteen years and not a party to the within entitled action. My business address is 2214 Fifth Avenue, San Diego, CA 92101.

On May 28, 2008, I served the within, 2 Copies of Notice and Acknowledgment of Receipt; A return envelope, addressed to THE LAW OFFICE OF BRICTSON & COHN, postage pre-paid; Summons: **MOORE, LEJONETTE V. LAB CORPS**; Complaint: **MOORE, LEJONETTE V. LAB CORPS**; Notice of Case Assignment; & Statement of Damages; by having hand delivered as follows:

John Wynne
Duckor, Stradling, Metzger,and Wynne
3043 Fourth Avenue
San Diego CA 92103

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 28, 2008 at San Diego, California

Alba Esquivel

EXHIBIT "B"

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address)*: Timothy L. Brictson, SBN 174907 2214 Fifth Avenue San Diego, CA 92101 TELEPHONE NO.: (619) 296-9387 FAX NO. *(Optional)*: E-MAIL ADDRESS *(Optional)*: ATTORNEY FOR *(Name)*: Lejonette Moore	*FOR COURT USE ONLY*
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: MAILING ADDRESS: 330 W. Broadway CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Central	
PLAINTIFF/PETITIONER: Lejonette Moore DEFENDANT/RESPONDENT: Laboratory Corporation of America	
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL	CASE NUMBER: 37-2008-00079135-cu-wt-ctl

TO *(insert name of party being served)*: Laboratory Corporation of America

NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: May 28, 2008

Alba Esquivel
(TYPE OR PRINT NAME)

▶ [signature]
(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of *(to be completed by sender before mailing)*:

1. ☑ A copy of the summons and of the complaint.
2. ☑ Other *(specify)*:
   Notice of Case Assignment
   Statement of Damages

***(To be completed by recipient)*:**

Date this form is signed: 6·17·08

JOHN C. WYNNE, attorney for Defendant
(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)

▶ [signature]
(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

Form Adopted for Mandatory Use
Judicial Council of California
POS-015 [Rev. January 1, 2005]

NOTICE AND ACKNOWLEDGMENT OF RECEIPT — CIVIL

Code of Civil Procedure, §§ 415.30, 417.10
www.JuriSearch.com

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF SAN DIEGO	**FOR COURT USE ONLY**
Lejonette Moore v. Laboratory Corporation of America	
John C. Wynne, Esq. (Bar No. 83041) DUCKOR SPRADLING METZGER & WYNNE 3043 4th Avenue San Diego, CA 92103 (619) 209-3000	

Attorneys for: Defendant Laboratory Corporation of America	**HEARING DATE-TIME-DEPT** Date: Time: Dept: 71	**CASE NUMBER** 37-2008-00079135-CU-WT-CTL

DECLARATION OF SERVICE BY MAIL
[C.C.P. §§ 1013a and 2015.5]

I, Laura L. Van Story, declare: That I am, and was at the time of service of the papers herein referred to, over the age of eighteen years, and not a party to the action; and I am employed in the County of San Diego, California, in which county the within-mentioned mailing occurred. My business address is 3043 4th Avenue, San Diego, California 92103. I served the following document(s):

- **NOTICE AND ACKNOWLEDGEMENT OF RECEIPT -- CIVIL**

by placing a copy thereof in a separate envelope for each addressee named hereafter, addressed to each such addressee, respectively, as follows:

Timothy L. Brictson, Esq.
2214 Fifth Avenue
San Diego, CA 92101

Attorney for Plaintiff, Lejonette Moore
Telephone: (619) 296-9387

I then sealed each envelope and placed each for mailing in accord with Duckor Spradling Metzger & Wynne's practice on June 18, 2008.

I am readily familiar with Duckor Spradling Metzger & Wynne's practice for collecting, processing and mailing correspondence and pleadings. Such correspondence and pleadings are deposited on the same day with the United States Postal Service in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 18th day of June, 2008.

Laura L. Van Story

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

# 152435 -- TC
*** * C O P Y * ***
June 30, 2008
16:42:43

Civ Fil Non-Pris
USAO #.: 08CV1163
Judge..: BARRY T MOSKOWITZ
Amount.: $350.00 CK
Check#.: BC20881

Total-> $350.00

FROM: LEJONETTE MOORE
VS
LABORATORY CORP OF AMERICA

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

FILED JUN 27 2008 CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA BY DEPUTY

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

ORIGINAL

I. (a) PLAINTIFFS
LEJONETTE MOORE

DEFENDANTS
LABORATORY CORPORATION OF AMERICA

(b) County of Residence of First Listed Plaintiff: San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
Timothy L. Brictson, Esq., 2214 Fifth Ave., San Diego, CA 92101; (619) 296-9387

Attorneys (If Known) '08 CV 1163 BTM CAB
John Wynne; Elizabeth Vann, Duckor Spradling Metzger & Wynne, 3043 4th Ave., San Diego, CA 92103; (619) 209-3000

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
☐ 110 Insurance; ☐ 120 Marine; ☐ 130 Miller Act; ☐ 140 Negotiable Instrument; ☐ 150 Recovery of Overpayment & Enforcement of Judgment; ☐ 151 Medicare Act; ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans); ☐ 153 Recovery of Overpayment of Veteran's Benefits; ☐ 160 Stockholders' Suits; ☐ 190 Other Contract; ☐ 195 Contract Product Liability; ☐ 196 Franchise

REAL PROPERTY
☐ 210 Land Condemnation; ☐ 220 Foreclosure; ☐ 230 Rent Lease & Ejectment; ☐ 240 Torts to Land; ☐ 245 Tort Product Liability; ☐ 290 All Other Real Property

TORTS
PERSONAL INJURY: ☐ 310 Airplane; ☐ 315 Airplane Product Liability; ☐ 320 Assault, Libel & Slander; ☐ 330 Federal Employers' Liability; ☐ 340 Marine; ☐ 345 Marine Product Liability; ☐ 350 Motor Vehicle; ☐ 355 Motor Vehicle Product Liability; ☐ 360 Other Personal Injury
PERSONAL INJURY: ☐ 362 Personal Injury - Med. Malpractice; ☐ 365 Personal Injury - Product Liability; ☐ 368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY: ☐ 370 Other Fraud; ☐ 371 Truth in Lending; ☐ 380 Other Personal Property Damage; ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
☐ 441 Voting; ☒ 442 Employment; ☐ 443 Housing/ Accommodations; ☐ 444 Welfare; ☐ 445 Amer. w/Disabilities - Employment; ☐ 446 Amer. w/Disabilities - Other; ☐ 440 Other Civil Rights

PRISONER PETITIONS
☐ 510 Motions to Vacate Sentence; Habeas Corpus: ☐ 530 General; ☐ 535 Death Penalty; ☐ 540 Mandamus & Other; ☐ 550 Civil Rights; ☐ 555 Prison Condition

FORFEITURE/PENALTY
☐ 610 Agriculture; ☐ 620 Other Food & Drug; ☐ 625 Drug Related Seizure of Property 21 USC 881; ☐ 630 Liquor Laws; ☐ 640 R.R. & Truck; ☐ 650 Airline Regs.; ☐ 660 Occupational Safety/Health; ☐ 690 Other

LABOR
☐ 710 Fair Labor Standards Act; ☐ 720 Labor/Mgmt. Relations; ☐ 730 Labor/Mgmt.Reporting & Disclosure Act; ☐ 740 Railway Labor Act; ☐ 790 Other Labor Litigation; ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
☐ 462 Naturalization Application; ☐ 463 Habeas Corpus - Alien Detainee; ☐ 465 Other Immigration Actions

BANKRUPTCY
☐ 422 Appeal 28 USC 158; ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
☐ 820 Copyrights; ☐ 830 Patent; ☐ 840 Trademark

SOCIAL SECURITY
☐ 861 HIA (1395ff); ☐ 862 Black Lung (923); ☐ 863 DIWC/DIWW (405(g)); ☐ 864 SSID Title XVI; ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
☐ 870 Taxes (U.S. Plaintiff or Defendant); ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
☐ 400 State Reapportionment; ☐ 410 Antitrust; ☐ 430 Banks and Banking; ☐ 450 Commerce; ☐ 460 Deportation; ☐ 470 Racketeer Influenced and Corrupt Organizations; ☐ 480 Consumer Credit; ☐ 490 Cable/Sat TV; ☐ 810 Selective Service; ☐ 850 Securities/Commodities/ Exchange; ☐ 875 Customer Challenge 12 USC 3410; ☐ 890 Other Statutory Actions; ☐ 891 Agricultural Acts; ☐ 892 Economic Stabilization Act; ☐ 893 Environmental Matters; ☐ 894 Energy Allocation Act; ☐ 895 Freedom of Information Act; ☐ 900 Appeal of Fee Determination Under Equal Access to Justice; ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
☐ 1 Original Proceeding; ☒ 2 Removed from State Court; ☐ 3 Remanded from Appellate Court; ☐ 4 Reinstated or Reopened; ☐ 5 Transferred from another district (specify); ☐ 6 Multidistrict Litigation; ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):
~~Disability and Sex Discrim., CRFA Violations, Wrongful Discharge, & Neg/Int. Infliction of Emotional Distress~~ 28 USC Section 1441(a) (Diversity)
Brief description of cause:
Plaintiff alleges various claims of employment discrimination.

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 — DEMAND $ 75,000.00+ — CHECK YES only if demanded in complaint: JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE ______ DOCKET NUMBER ______

DATE 06/27/2008 — SIGNATURE OF ATTORNEY OF RECORD: Elizabeth B. Vann [signature]

FOR OFFICE USE ONLY

RECEIPT # 152435 AMOUNT $350 APPLYING IFP ______ JUDGE ______ MAG. JUDGE ______

TAC 6/30/08

CR

JS 44 Reverse (Rev. 12/07)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. **(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.